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EXTRAORDINARY

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PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके :
Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bill was introduced in Lok Sabha on the 14th November, 1977:—

BILL No 122 OF 1977

A Bill to provide for the levy and collection of a cess on water consumed by persons carrying on certain industries and by local authorities, with a view to augment the resources of the Central Board and the State Boards for the prevention and control of water pollution constituted under the Water (Prevention and Control of Pollution) Act, 1974.

Be it enacted by Parliament in the Twenty-eighth Year of the Republic of India as follows:—

1 (1) This Act may be called the Water (Prevention and Control of Pollution) Cess Act, 1977.

Short title, extent, application and commencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) Subject to the provisions of sub-section (2), it applies to all the States to which the Water (Prevention and Control of Pollution) Act, 1974 applies and the Union territories.

(4) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "local authority" means a municipal corporation or a municipal council (by whatever name called) or a cantonment board or any other body, entrusted with the duty of supplying water under the law by or under which it is constituted;

(b) "prescribed" means prescribed by rules made under this Act;

(c) "specified industry" means any industry specified in Schedule I,

(d) words and expressions used but not defined in this Act and defined in the Water (Prevention and Control of Pollution) Act, 1974 6 of 1974 shall have the meanings respectively assigned to them in that Act

Levy
and col-
lection
of cess.

3. (1) There shall be levied and collected a cess for the purposes of the Water (Prevention and Control of Pollution) Act, 1974 and utilisation 6 of 1974 thereunder.

(2) The cess under sub-section (1) shall be payable by—

- (a) every person carrying on any specified industry; and
- (b) every local authority,

and shall be calculated on the basis of the water consumed by such person or local authority, as the case may be, for any of the purposes specified in column (1) of Schedule II, at such rate, not exceeding the rate specified in the corresponding entry in column (2) thereof, as the Central Government may, by notification in the Official Gazette, from time to time, specify

(3) Where any local authority supplies water to any person carrying on any specified industry or to any other local authority and such person or other local authority is liable to pay cess under sub-section (2) in respect of the water so supplied, then, notwithstanding anything contained in that sub-section, the local authority first mentioned shall not be liable to pay such cess in respect of such water

Explanation—For the purposes of this section and section 4, "consumption of water" includes supply of water.

Affixing
of
meters.

4 (1) For the purpose of measuring and recording the quantity of water consumed, every person carrying on any specified industry and every local authority shall affix meters of such standards and at such places as may be prescribed and it shall be presumed that the quantity indicated by the meter has been consumed by such person or local authority, as the case may be, until the contrary is proved

(2) Where any person or local authority fails to affix any meter as required by sub-section (1), the Central Government shall, after notice to such person or local authority, as the case may be, cause such meter to be affixed and the cost of such meter together with the cost for affixing the meter may be recovered from such person or local authority by the Central Government in the same manner as an arrear of land revenue

Furnish-
ing of
returns.

5. Every person carrying on any specified industry and every local authority, liable to pay the cess under section 3, shall furnish such returns, in such form, at such intervals and containing such particulars to such officer or authority, as may be prescribed.

Assess-
ment of
cess.

6 (1) The officer or authority to whom or which the return has been furnished under section 5 shall, after making or causing to be made such inquiry as he or it thinks fit and after satisfying himself or itself that the particulars stated in the return are correct, by order, assess the amount of cess payable by the concerned person carrying on any specified industry or local authority, as the case may be.

(2) An order of assessment made under sub-section (1) shall specify the date within which the cess shall be paid to the State Government.

(3) A copy each of the order of assessment made under sub-section (1) shall be sent to the person or, as the case may be, to the local authority concerned and to the State Government

(4) The State Government shall, through such of its officers or authorities as may be specified by it in this behalf by notification in the Official Gazette, collect the cess from the person or local authority liable to pay the same and pay the amount so collected to the Central Government in such manner and within such time as may be prescribed.

7 Where any person or local authority, liable to pay the cess under this Act, installs any plant for the treatment of sewage or trade effluent, such person or local authority shall, from such date as may be prescribed, be entitled to a rebate of seventy per cent of the cess payable by such person or, as the case may be, local authority. Rebate.

8. The proceeds of the cess levied under section 3 shall first be credited to the Consolidated Fund of India and the Central Government may, if Parliament, by appropriation made by law in this behalf, so provides, pay to the Central Board and every State Board, from time to time, from out of such proceeds, after deducting the expenses on collection, such sums of money as it may think fit for being utilised under the Water (Prevention and Control of Pollution) Act, 1974: Credit-
ing pro-
ceeds of
cess to
Consoli-
dated
Fund of
India
and
applica-
tion
thereof.

Provided that while determining the sum of money to be paid to any State Board under this section, the Central Government shall have regard to the amount of cess collected by the State Government concerned under sub-section (4) of section 6

Explanation—For the purposes of this section, "State Board" includes a Joint Board, if any, constituted under section 13 of the Water (Prevention and Control of Pollution) Act, 1974 6 of 1974.

9. Any officer or authority of the State Government specially empowered in this behalf by that Government may,— Power of
entry.

(a) with such assistance, if any, as he or it may think fit, enter at any reasonable time any place which he or it considers it necessary to enter for carrying out the purposes of this Act including the testing of the correctness of the meters affixed under section 4,

(b) do within such place anything necessary for the proper discharge of his or its duties under this Act; and

(c) exercise such other powers as may be prescribed.

10. If any person carrying on any specified industry or any local authority fails to pay any amount of cess payable under section 3 to the State Government within the date specified in the order of assessment made under section 6, such person or local authority, as the case may be, shall be liable to pay interest at twelve per cent. per annum on the amount to be paid from the date on which such payment is due till such amount is actually paid. Interest
payable
for delay
in pay-
ment of
cess.

Penalty
for non-
payment
of cess
within
the speci-
fied
time.

11 If any amount of cess payable by any person carrying on any specified industry or any local authority under section 3 is not paid to the State Government within the date specified in the order of assessment made under section 6, it shall be deemed to be in arrears and the authority prescribed in this behalf may, after such inquiry as it deems fit, impose on such person or, as the case may be, local authority, a penalty not exceeding the amount of cess in arrears:

Provided that before imposing any such penalty, such person or, as the case may be, the local authority shall be given a reasonable opportunity of being heard and if after such hearing the said authority is satisfied that the default was for any good and sufficient reason, no penalty shall be imposed under this section

Recovery
of
amount
due
under
the Act

12. Any amount due under this Act (including any interest or penalty payable under section 10 or section 11, as the case may be) from any person carrying on any specified industry or from any local authority may be recovered by the Central Government in the same manner as an arrear of land revenue.

Appeals.

13. (1) Any person or local authority aggrieved by an order of assessment made under section 6 or by an order imposing penalty made under section 11 may, within such time as may be prescribed, appeal to such authority in such form and in such manner as may be prescribed.

(2) Every appeal preferred under sub-section (1) shall be accompanied by such fees as may be prescribed.

(3) After the receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard in the matter, dispose of the appeal as expeditiously as possible

(4) Every order passed in appeal under this section shall be final and shall not be called in question in any court of law.

Penalty.

14. (1) Whoever, being under an obligation to furnish a return under this Act, furnishes any return knowing, or having reason to believe, the same to be false shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) Whoever, being liable to pay cess under this Act, wilfully or intentionally evades or attempts to evade the payment of such cess shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(3) No court shall take cognizance of an offence punishable under this section save on a complaint made by or under the authority of the Central Government.

Offences
by com-
panies.

15. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or it attributable to any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals, and

(b) "director", in relation to a firm, means a partner in the firm

16. (1) The Central Government may, by notification in the Official Gazette add to Schedule I any industry having regard to the consumption of water in the carrying on of such industry and the consequent discharge thereof resulting in pollution of any stream and thereupon Schedule I shall, subject to the provisions of sub-section (2), be deemed to be amended accordingly.

Power to
amend
Schedule
I.

(2) Every such notification shall be laid before each House of Parliament, if it is sitting, as soon as may be after the issue of the notification, and if it is not sitting, within seven days of its re-assembly and the Central Government shall seek the approval of Parliament to the notification by a resolution moved within a period of fifteen days beginning with the day on which the notification is so laid before the House of the People, and if Parliament makes any modification in the notification or directs that the notification should cease to have effect, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, but without prejudice to the validity of anything previously done thereunder

17 (1) The Central Government may make rules for carrying out the purposes of this Act

Power to
make
rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the standards of the meters to be affixed and the places at which such meters are to be affixed under sub-section (1) of section 4;

(b) the returns to be furnished under section 5, the form in which and the intervals at which such returns are to be furnished, the particulars which such returns shall contain and the officer or authority to whom or which such returns shall be furnished,

(c) the manner in which and the time within which the cess collected shall be paid to the Central Government under sub-section (4) of section 6;

(d) the date from which any person or local authority liable to pay cess shall be entitled to the rebate under section 7;

(e) the powers which may be exercised by the officer or authority under section 9;

(f) the authority which may impose penalty under section 11;

(g) the authority to which an appeal may be filed under sub-section (1) of section 13 and the time within which and the form and manner in which such appeal may be filed;

(h) the fees which shall accompany an appeal under sub-section (2) of section 13; and

(i) any other matter which has to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

SCHEDULE I

[See section 2(c)]

1. Ferrous metallurgical industry.
2. Non-ferrous metallurgical industry.
3. Mining industry.
4. Ore processing industry
5. Petroleum industry.
6. Petro-chemical industry.
7. Chemical industry.
8. Ceramic industry.
9. Cement industry.
10. Textile industry.
11. Paper industry.
12. Fertilizer industry.
13. Coal (including coke) industry.
14. Power (thermal and diesel) generating industry.
15. Processing of animal or vegetable products industry.

SCHEDULE II

(See section 3)

Purpose for which water is consumed	Maximum rate
(1)	(2)
1. Industrial cooling, spraying in mine pits or boiler feed.	Three-fourths of a paisa, per kilo litre.
2. Domestic purpose	One paisa, per kilo litre.
3. Processing whereby water gets polluted and the pollutants are easily bio-degradable	Two paise, per kilo litre.
4. Processing whereby water gets polluted and the pollutants are not easily bio-degradable and are toxic.	Two and a half paise, per kilo litre.

STATEMENT OF OBJECTS AND REASONS

The Water (Prevention and Control of Pollution) Act, 1974 has been enacted by Parliament under article 252 of the Constitution with a view to control the pollution of rivers and streams which has assumed considerable importance and urgency in recent years as a result of increasing industrialisation and urbanisation. The Act is intended to ensure that the domestic and industrial effluents are not allowed to be discharged into water courses without adequate treatment. This Act is now in force in fifteen States and in all Union territories. The other remaining States are also likely to adopt the Act in the near future.

2. According to the provisions of the Act, the Central Government and the State Governments have to provide funds to the Central Board and State Boards for prevention and control of water pollution respectively, for implementing the provisions of the Act. However, due to pressure on the limited resources, the State Governments are not able to provide adequate funds to the State Boards for their effective functioning. It is, therefore, proposed to levy a cess on local authorities which are entrusted with the duty of supplying water under the law by or under which they are constituted and on certain specified industries. The cess proposed to be levied will be on the basis of the water consumed by such local authorities and industries. The cess will be collected by the State Governments concerned and will be paid to the Central Government and the Central Government, after due appropriation made by Parliament by law, will pay, having regard to the amount of cess collected by the concerned State Governments, such sums of money as it may think fit to the Central Board and the State Boards.

3. The present Bill seeks to achieve the above objectives.

NEW DELHI;
The 23rd August, 1977.

SIKANDER BAKHT.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. H-11018/1/74-EPC, dated the 31st October, 1977 from Shri Sikander Bakht, Minister of Works and Housing and Supply and Rehabilitation to the Secretary, Lok Sabha.]

The President having been informed of the subject matter of the proposed Bill to provide for the levy and collection of a cess on water consumed by persons carrying on certain industries and by local authorities with a view to augment the resources of the Central Board and the State Boards for the Prevention and Control of Water Pollution constituted under the Water (Prevention and Control of Pollution) Act, 1974, recommends, the introduction of the Bill in, and consideration thereof by, Lok Sabha under article 117(1) and (3) of the Constitution.

FINANCIAL MEMORANDUM

The Bill provides for the levy of a cess on water consumed by persons carrying on specified industries and local authorities entrusted with the duty of supplying water under the laws by or under which they are constituted. Under sub-clause (4) of clause 6 of the Bill, the cess is to be collected by the State Governments and the State Governments are to pay the cess so collected to the Central Government in such manner and within such time as may be prescribed.

2 Under clause 8 of the Bill, the proceeds of the cess levied and collected will first be credited to the Consolidated Fund of India and the Central Government may, if Parliament by appropriation made by law in this behalf, so provides, pay to the Central Board and every State Board from time to time, from out of such proceeds, after deducting the expenses of collection, such sums of money as it may think fit for being utilised for the purposes of the Water (Prevention and Control of Pollution) Act, 1974. The Central Government, in relation to Union territories, and the State Governments will have to incur expenditure towards the collection of the cess. The expenditure incurred by the State Governments will have to be reimbursed by the Central Government. The exact expenditure to be incurred by the Central Government and the State Governments (which is of a recurring nature) cannot be estimated at this stage, but it is not likely to exceed Rs 140 lakhs in a year.

3. No non-recurring expenditure is anticipated at present.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the purposes of the proposed legislation. Sub-clause (2) of the clause catalogues the various matters with respect to which rules may be made. The matters with respect to which rules may be made under the clause are matters of procedure and detail and can hardly be provided in the Bill itself.

2. The delegation of legislative power is, therefore, of a normal character.

AVTAR SINGH RIKHY,

Secretary.